

REMARKS

In the Office Action, claims 10-25 are pending and are rejected under 35 U.S.C 103(a) as being unpatentable over North, et al. (U.S. Patent No. 5,693,591) and Parr, et al. (U.S. Patent No. 5,885,932).

As discussed in the present specification, North relates to additives that promote the activity of rest-breaking agents for deciduous fruit trees (see page 2, lines 1-5, and page 5, lines 31-32 to page 6, lines 1-7, for discussions of WO 94/23574, the equivalent of US 5,693,591). These additives include alkoxylated amines and alkoxylated quaternary ammonium compounds (see abstract), including those described in col. 4 of North. The additive is added to a composition comprising a rest-breaking agent. In the examples, it is shown that the rest-breaking agent may be an inorganic nitrate (see examples 10-17). It should be understood from the description of the subject patent application that the activity promoting additives disclosed in North cover the same group of compounds as those compounds in the present application (i.e., alkoxylated amine and alkoxylated quaternary ammonium) that are referred to in the present application by the term "surfactant". Therefore, North basically discloses a composition of an inorganic nitrate rest-breaking agent and a surfactant.

As admitted in the Office Action, North does not disclose the groups stated in the present claim 10. In fact, no disclosure, teaching or suggestion is made in North of a composition that comprises an inorganic nitrate rest-breaking agent and a surfactant and that further comprises an organic nitrogen containing compound selected from the group ethylenediamine, (C₁-C₃)alkylated ethylenediamines, (carboxymethyl)tri-(C₁-C₃)-alkylammonium salts, (2-hydroxyethyl)tri(C₁-C₃)alkylammonium salts, (2-hydroxypropyl)tri(C₁-C₃)alkylammonium salts, (2-hydroxybutyl)tri(C₁-C₃)alkylammonium salts, and mixtures thereof.

No where in North exists a teaching or suggestion to add ethylenediamine or ethylenediamine-derivatives to the compositions of inorganic nitrate rest-breaking agents and surfactants that are disclosed in North. And no where in North is there a teaching or suggestion that such an addition of ethylenediamines or derivatives thereof to the compositions of North would be expected to have a beneficial effect on bud break.

Parr discloses the same subject matter as North, but for application on non-deciduous fruit trees. As such, the above discussion relating to North also applies to the teachings of Parr. Specifically, and as further discussed in the present specification (see page 2, lines 7-12, for discussion of WO 96/01049, the equivalent of US 5,885,932), Parr only discloses a composition of an inorganic nitrate rest-breaking agent and a surfactant. Parr does not disclose the further addition of an organic nitrogen-containing compound nor does Parr teach or suggest the positive effect on bud break acquired by the addition of this organic nitrogen-containing compound.

As set forth in the specification, the present invention provides a more uniform bud break, and a desired balance of vegetative and reproductive bud break is reached while an effective break of rest in deciduous fruit species is maintained. Specifically, in the examples, it is clearly demonstrated (see comparison example C and example 1) that the further addition of an organic nitrogen containing compound to compositions comprising an inorganic nitrate rest-breaking agent and a surfactant unexpectedly leads to a clear effect on overall bud break. Moreover, the compositions of the subject patent application are less toxic, can be used at economically and environmentally acceptable concentrations and are non-hazardous to operators (see page 2, third paragraph to page 3, second paragraph of the present application).

The combination of North and Parr do not teach, suggest or disclose the present invention. First, one skilled in the art would not combine these two references as they relate to two different technical fields – the field of deciduous fruit and the field of non-deciduous fruit. Even if, in arguendo, one were to combine these two references, the

addition of ethylenediamine or ethylenediamine derivatives to the compositions of inorganic nitrate rest-breaking agents and surfactants disclosed in the prior art in order to acquire the effects indicated in the present invention is not taught by the combination. There can be found no motivation or incentive in either of the references that would lead one skilled to further add ethylenediamine or ethylenediamine derivatives to the compositions of the prior art with the expectation of successfully achieving beneficial effects on bud break and an overall less toxic compound.

Thus, for the reasons set forth above, the present invention is both novel and non-obvious over North and Parr, either taken alone or in combined. The Applicants respectfully request that the Examiner reconsider the rejection of claims 10-25 and find the claims in condition for immediate allowance.

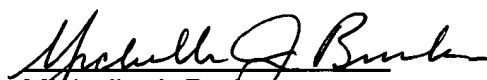
In accordance with Section 714.01 of the M.P.E.P., the following information is presented in the event that a call may be deemed desirable by the Examiner:

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Respectfully submitted,

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